

**STATEMENT OF
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BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
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Major League Baseball has made tremendous progress in dealing with the issue of performance enhancing substances. Today I would like to describe for you that progress at both the minor league and Major League level. I would also like to describe for you the newly-negotiated Major League steroid policy as well as an effort we have undertaken with the Partnership for a Drug Free America aimed at educating America's youth on the dangers of steroid use.

In 2001, I promulgated the first-ever comprehensive drug testing policy for minor league baseball. In the first year of testing under that policy, the positive rate in the minor leagues was approximately eleven percent. Confronted with this high rate, we responded with more testing and tougher discipline. In each subsequent year, that positive rate has decreased and the overall decrease has been dramatic. The rate was 4.8 percent in 2002, 4 percent in 2003 and just 1.7 percent in 2004. As we embark on the 2005 season, Baseball has committed even more resources to the eradication of steroid use in the minor leagues. We will do more testing, expanding the program into the Venezuelan Summer League, and will continue to discipline violators in a manner that our medical advisors believe will eradicate steroid use.

Similar progress has been made at the Major League level. In 2002, Major League Baseball reached a new agreement with the Major League Baseball Players

Association (“MLBPA”) which, for the first time, provided for testing of Major League players for steroids. Under the agreement, an anonymous prevalence study was conducted in 2003. The positive rate for performance enhancing substances in the 2003 testing was in the range of 5-7 percent. This disturbing rate triggered a more rigorous disciplinary testing program in 2004. This more effective program resulted in a decline of the positive rate to 1-2 percent. In other words, the 2002 agreement that has been roundly criticized in some circles actually resulted in a significant reduction in steroid use.

Despite this improvement, Major League Baseball has continued to move ahead on this important and challenging issue. Last December, at my urging, the MLBPA took the unprecedented step of reopening an existing collective bargaining agreement to allow for the negotiation of an even stronger, new policy on performance enhancing substances. This new policy addresses all of the major areas of concern raised in Congressional hearings conducted in 2004.

Before I turn to the specifics of the new policy, however, I want to review the background that lead to our concerns and, ultimately, the adoption of a new policy. In the period of time following the 1994-95 strike, I began to hear more about the possibility of the use of performance enhancing substance by players. That concern escalated with the 1998 statements involving Mark McGwire and androstenedione (“andro”). At that time, we began a comprehensive review of the medical and health issues. Given the limitations in our collective bargaining agreement, we were prohibited from testing

players to determine which particular players were using what substances. Through extensive conversations with doctors and trainers and consultation with experts in the field, however, I was able to learn enough to decide that performance enhancing substances were a serious issue in Baseball that had to be addressed.

To assist us in the development of our minor league policy and, later, our bargaining proposals to the Players Association, we hired and relied upon experts in the area of drugs and sports. As the Medical Director of Major League Baseball, we hired Dr. Elliot Pellman, who holds a similar position with the NFL. Dr. Pellman, in turn, hired Dr. Gary Green who is affiliated with the World Anti-Doping Agency-certified laboratory at UCLA. Dr. Green is a leading expert on performance enhancing substances. We also retained Dr. Larry Westreich, a well-known expert on the treatment of substance abuse problems. I have relied heavily on these experts in developing and refining our policies.

I should also say a word about our players. For some time now the majority of our great and talented athletes have deeply -- and rightly-- resented two things. They have resented being put at a competitive disadvantage by their refusal to jeopardize their health and the integrity of the game by using illegal and dangerous substances. And they have deeply -- and rightly -- resented the fact that they live under a cloud of suspicion that taints their achievements on the field.

This cloud has been produced, in part, by some critics of baseball who, although well intentioned, are not well informed about baseball's multifaceted campaign against such substances. This campaign has produced dramatic, quantifiable successes. You will hear in detail from Robert Manfred, Executive Vice President of Major League Baseball, about what has done in the minor leagues, and about what has been done at the major league level, in the context of collective bargaining.

Now, I would like to turn to the details of our new Major League policy. First, the new policy broadens the list of banned substances in baseball. The banned list includes not only all steroids, but also steroid precursors, ephedra, human growth hormone and diuretics and other masking agents. I should add that Congress' passage of the Anabolic Steroid Control Act of 2004 was a key development in allowing Baseball to move closer to accepted international standards in this area.

Second, the new policy greatly increases the frequency of testing of Major League players. Under our prior policy, each player was subject to one steroid test per season on an unannounced, randomly-selected date. This type of testing was an important first step and will be continued in 2005. Under the old testing program, however, once the player had completed his one test for the year, the threat of discipline for the use of steroids was gone until the next season. To address this issue, Major League Baseball added an on-going program of random testing for 2005 under which players can be tested multiple times in a given year. Under the new policy, no matter how many times a player is tested in a given year, he will remain subject to an additional random test.

Third, the new policy, for the first time, introduces off-season or “out-of-competition” testing. In the traditional employment context, unions have understandably resisted employer efforts to intrude into off-duty hours and vacation time. This traditional union resistance has carried over into the context of professional sports. To its credit, however, the MLBPA has agreed to compromise the legitimate privacy concerns of its members and allow off-season testing. This off-season testing, which will literally be carried out around the globe, will insure that players cannot use the winter as an opportunity for drug-induced performance enhancement.

Baseball’s new policy also provides for increased penalties. Under the new policy, first-time offenders will be suspended for ten days, without pay, and will be publicly identified as having violated the policy against the use of performance enhancing substances. A ten-day suspension will cost the average Major League player approximately \$140,000 in lost salary. Penalties for subsequent offenses increase to 30 days, 60 days and one year. More important in terms of deterrence, however, is the fact that no player wants to be identified to his peers and the public as a cheater.

Some have suggested that greater penalties, particularly for first offenders, would be in order. With the guidance of my medical advisors, however, I agreed to the lesser penalties on the theory that behavior modification should be the most important goal of our policy and that the penalties in our new policy were well-designed to serve that goal.

As Baseball's testing program has become more strict, we have also worked to improve its quality. Last year, Baseball moved its testing programs into independent Olympic laboratories certified by the World Anti-Doping Agency ("WADA"). The minor league testing is now done at the WADA-certified lab at UCLA and the Major League testing for performance enhancing substances is done at the WADA-certified lab in Montreal. These labs are the "gold standard" in testing for performance enhancing substances. Equally important, our relationship with these facilities has put Baseball in a better position to monitor new developments in the area of performance enhancing substances. For example, Baseball has already banned at both the Major League and minor league levels the designer steroid Dehydrochloromethyltestosterone ("DMT"), that was recently discovered at the WADA laboratory in Montreal.

Baseball is, of course, an international game. Recognizing this fact, our efforts at eliminating the use of performance enhancing substances have an international component. Last year, the minor league policy was expanded to the Dominican Summer League, complete with testing and educational activities. Our partners in the Mexican League have announced recently their intention to implement a program much like our minor league policy and we will extend our minor league policy to the Venezuelan Summer League this year.

Next spring, Baseball and the MLBPA will conduct the first-ever international baseball tournament in which countries from around the world will field teams that include the best professional players, including the biggest Major League stars. As part

of the event, Major League Baseball, the MLBPA and the International Baseball Federation (“IBAF”) have reached an agreement whereby all participants in the event will be subject to Olympic-style drug testing in accordance with the World Anti-Doping Code. The world tournament will not only provide great international competition but it will also mark another step forward in Baseball’s effort to deal with the problem of performance enhancing substances. In promoting this event, Baseball will emphasize this important anti-steroid message.

Major League Baseball has always recognized the influence that our stars can have on the youth of America. As such, we are concerned that recent revelations and allegations of steroid use have been sending a terrible message to young people. Over the past year, we have been working with our friends at the Partnership for a Drug Free America to determine the appropriate timing and content of public service announcements that will discourage young people from using steroids. In the coming months, you will see the product of these efforts on television and we can only hope that these announcements will contribute to better decision-making by young athletes. My office has also had conversations with Congressman Sweeney about Major League Baseball providing support for his proposed legislation on steroid education and becoming involved in the educational programs created by that legislation. I expect that these conversations will continue and will bear fruit.

Baseball’s policy on performance enhancing substances is as good as any in professional sports. Notwithstanding the quality of our new policy, Baseball will not rest

and will continue to be vigilant on the issue of performance enhancing substances as we move toward my stated goal of zero tolerance.